



City Council Chambers
3300 Capitol Avenue
Fremont, California

City Council

Bob Wasserman, Mayor
Anu Natarajan, Vice Mayor
Bob Wieckowski
Bill Harrison
Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Michael Rich, Human Resources Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

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Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk
City of Fremont
3300 Capitol Avenue, Bldg. A
Fremont, California 94538
Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA
FREMONT CITY COUNCIL REGULAR MEETING
APRIL 7, 2009
COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A
7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes for the Special Meeting, Work Session and Regular Meetings of March 24, 2009, the Regular Meeting and Work Session of December 18, 2007, the Special Meeting and Regular Meeting of November 27, 2007, and the Regular Meeting and Work Session of November 13, 2007.*

- 2.3 *Second Reading and Adoption of an Uncodified Ordinance of the City of Fremont Authorizing Additional Extensions to Existing Building Permit Applications and Building Permits*

RECOMMENDATION: Adopt ordinance.

- 2.4 *Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 5339 Mowry Avenue from Thoroughfare Commercial (C-T) to Planned District 2009-156*

RECOMMENDATION: Adopt ordinance.

- 2.5 *Second Reading and Adoption of an Ordinance of the City of Fremont, Amending Fremont Municipal Code, Title II, Administration and Finance, Chapter 9, Purchasing Code, Article 4, Section 2-9404, Subsection F, to Temporarily Increase the Preference for Local Owned Businesses from 2.5% to 5% in City Purchases of Personal Property Exceeding \$25,000*

RECOMMENDATION: Adopt ordinance.

- 2.6 *AWARD OF \$130,000 CONTRACT TO QUESTA ENGINEERING*
Authorize the City Manager to Execute a Not-To-Exceed \$130,000 Contract with Questa Engineering Corporation for Design and Permit Application Services Related to Creek and Habitat Restoration and Public Access Improvements at Sabercat Creek

Contact Person:

<i>Name:</i>	<i>Barbara Silva</i>	<i>Kathy Cote</i>
<i>Title:</i>	<i>Supervising E.S. II</i>	<i>Environmental Services Manager</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-494-4575</i>	<i>510-494-4583</i>
<i>E-Mail:</i>	<i>bsilva@fremont.gov</i>	<i>kcote@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or his designee to enter into an agreement with Questa Engineering Corporation in the amount not-to-exceed \$130,000.

- 2.7 *ADDITIONAL FUNDING FOR THE FAMILY RESOURCE CENTER CARPET REPLACEMENT PROJECT*
Approval of Additional Funding for the Family Resource Center Carpet Replacement Project at 39155 Liberty Street, Fremont, CA 94538 (City Project No. PWC 8680)

Contact Person:

<i>Name:</i>	<i>Lucia Hughes</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Management Analyst II</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2043</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>lhughes@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATIONS:

- 1. Appropriate \$30,000 in unallocated FY 2008/09 CDBG funding for the FRC Flooring Replacement project (City Project No. 105 PWC 8680).*
- 2. Authorize the City Manager or designee to increase the purchase order with Shaw Industries in the amount of \$30,000 for carpet replacement at the FRC for a total amount of \$190,000 using the CMAS contract No. 4-08-72-0008B.*

- 2.8 *FISCAL YEAR 2009/10 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS*
Resolution Authorizing Fiscal Year (FY) 2009/10 Transportation Development Act (TDA) Article 3 Grant Application and Acceptance of the TDA Article 3 Funds for

Pedestrian Crossing Improvement Project on Deep Creek Road in the Vicinity of Ardenwood Elementary School

Contact Person:

<i>Name:</i>	<i>Rene Dalton</i>	<i>Kunle Odumade</i>
<i>Title:</i>	<i>Associate Transportation Engineer</i>	<i>Transportation Engineer</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-494-4535</i>	<i>510-494-4746</i>
<i>E-Mail:</i>	<i>rdalton@fremont.gov</i>	<i>kodumade@fremont.gov</i>

RECOMMENDATIONS:

- 1. Adopt a resolution authorizing the City Manager, or his designee, (a) to apply for Transportation Development Act Article 3 Funds in the amount of \$287,313 for the Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane for FY 2009/10; and (b) to accept any awarded grant funds for the Project and to execute any necessary implementing documents.*
- 2. Appropriate any grant funds received to 107 PWC8698, Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane.*

2.9 FUND EXCHANGE AGREEMENT WITH THE CONGESTION MANAGEMENT AGENCY TO FUND STREET OVERLAY PROJECTS

Authorize the City Manager to Execute a Fund Exchange Agreement for American Recovery and Reinvestment Act of 2009 (ARRA) Local Streets and Roads Funds for \$1,897,000 with the Alameda County Congestion Management Agency to Fund Street Overlay Projects

Contact Person:

<i>Name:</i>	<i>Kunle Odumade</i>	<i>Jim Pierson</i>
<i>Title:</i>	<i>Transportation Engineer</i>	<i>Director</i>
<i>Dept.:</i>	<i>Transportation & Operations</i>	<i>Transportation & Operations</i>
<i>Phone:</i>	<i>510-494-4746</i>	<i>510-494-4722</i>
<i>E-Mail:</i>	<i>kodumade@fremont.gov</i>	<i>jpierson@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or his designee to execute CMA Local Funds Exchange Agreement B09-xxx as described in this staff report.

2.10 APPROVAL OF LOCAL ALTERNATIVE TRANSPORTATION IMPROVEMENT PROGRAM (LATIP) PROJECT LIST ASSOCIATED WITH THE EAST-WEST CONNECTOR (ROUTE 84) PROJECT

Adoption of a Resolution to Approve the State Route 84 Historic Parkway Local Alternative Transportation Improvement Program (LATIP) Project Priority List Associated with the East-West Connector Project and Required to Fund the I-880/Mission Boulevard Interchange Project Phases 1B and 2

Contact Person:

*Name: Jim Pierson
Title: Director
Dept.: Transportation & Operations
Phone: 510-494-4722
E-Mail: jpierson@fremont.gov*

RECOMMENDATION: Adopt the enclosed resolution approving the Local Alternative Transportation Improvement Program (LATIP) Project list as shown in the enclosed table and described herein.

2.11 TASK ORDER NO. 4 TO JOINT POWERS AGREEMENT WITH FUSD

Approve Task Order No. 4 to the Joint Powers Agreement with Fremont Unified School District for the Provision of School-Site Mental Health Services in FY 2008/09

Contact Person:

<i>Name:</i>	<i>Iris Preece</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Youth & Family Services Administrator</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2128</i>	<i>510-571-2051</i>
<i>E-Mail:</i>	<i>ipreece@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATION: Authorize the City Manager or designee to execute Task Order No. 4 to the existing joint powers agreement with Fremont Unified School District for the Youth and Family Services Division of the Human Services Department to provide mental health services in FY 2008/09 in an amount not to exceed \$103,950.

2.12 NEIGHBORHOOD STABILIZATION PROGRAM JOINT AGREEMENT

Approval of Joint Agreement between the Cities of Fremont, Alameda, Berkeley, Livermore, San Leandro, and Union City to Participate in the Neighborhood Stabilization Program

Contact Person:

<i>Name:</i>	<i>Lucia Hughes</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Management Analyst II</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2043</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>lhughes@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

RECOMMENDATION: Adopt a resolution authorizing the City Manager or his designee to execute a Joint Agreement with the Cities of Alameda, Berkeley, Fremont, Livermore, San Leandro and Union City to participate in the Neighborhood Stabilization Program.

2.13 ADOPTION OF A RESOLUTION APPROVING A RECORDS RETENTION SCHEDULE FOR THE MAINTENANCE SERVICES DIVISION, AND APPROVING THE ADDITION OF A NEW SECTION TITLED, GENERAL ADMINISTRATIVE FILES, FOR ALL RETENTION SCHEDULES, AND REVISIONS TO THE CITY ATTORNEY'S OFFICE AND CITY CLERK'S OFFICE RETENTION SCHEDULES
Adoption of a Resolution Approving a Records Retention Schedule for the Maintenance Services Division and Approving the Addition of a New Section Titled, General City Administrative Files, for all Retention Schedules, and Revisions to the City Attorney's Office and City Clerk's Office Retention Schedules

Contact Person:

Name:	<i>Dawn G. Abrahamson</i>	<i>Melissa Stevenson Dile</i>
Title:	<i>City Clerk</i>	<i>Deputy City Manager</i>
Dept.:	<i>City Clerk</i>	<i>City Manager</i>
Phone:	<i>510-284-4063</i>	<i>510-284-4005</i>
E-Mail:	<i>dabrahamson@fremont.gov</i>	<i>mdile@fremont.gov</i>

RECOMMENDATION: *Adopt a Resolution approving the Maintenance Services Division Retention Schedule; approve revisions to the City Attorney's Office and the City Clerk's Office retention schedules, and to approve the addition of a new section, General Administrative Files, to the retention schedules for the City Attorney's Office, City Clerk's Office, City Manager's Office, Community Development, Economic Development, Finance, Fire, Human Resources, Human Services, Information Systems, Office of Housing & Redevelopment, Parks & Recreation, Police, and Transportation & Operations Departments Records Retention Schedules; and granting approval for the destruction of records in accordance with the Retention Schedule, subject to the review and consent of the City Attorney.*

2.14 POLICE DEPARTMENT ENTERTAINMENT LICENSE APPLICATION FEE
Public Hearing (Published Notice) to Set the License Application Fee Amount for Class One Places of Entertainment

Contact Person:

Name:	<i>Geneva Bosques</i>	<i>Craig Steckler</i>
Title:	<i>Management Analyst II</i>	<i>Police Chief</i>
Dept.:	<i>Police</i>	<i>Police</i>
Phone:	<i>510-790-6957</i>	<i>510-790-6811</i>
E-Mail:	<i>gbosques@fremont.gov</i>	<i>csteckler@fremont.gov</i>

RECOMMENDATION: *Staff recommends City Council adopt a resolution setting the Class One Entertainment License Fees for police services, as described above, effective April 7, 2009.*

2.15 FREMONT JAIL BOOKING FEE AND JAIL ACCESS FEE EFFECTIVE JULY 1, 2008
Continuation of Public Hearing (Published Notice) to Consider Proposed Jail Fees to Neighboring Agencies Retroactive to July 1, 2008

Contact Person:

Name: Richard Lucero

Title: Police Captain

Dept.: Police Department

Phone: 510-790-6818

E-Mail: rlucero@fremont.gov

Craig T. Steckler

Chief of Police

Police Department

510-790-6810

csteckler@fremont.gov

RECOMMENDATION: Adopt a resolution approving the Jail Booking Fee at the Fremont Detention Facility to be \$12.30 and the Jail Access Fee to be \$247.25 retroactively beginning July 1, 2008, and for neighboring cities to be invoiced for services accordingly.

3. CEREMONIAL ITEMS

3.1 Proclamation: Arbor Day

3.2 Proclamation: Fair Housing Month

3.3 Resolution: Recognizing the 20th Anniversary of Adobe Services
(formerly Tri-City Homeless Coalition)

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS

5.1 DEVELOPMENT IMPACT FEES--CITYWIDE

Public Hearing (Published Notice) to Consider a Resolution to Collect Development Impact Fees at 75% of their Full Amounts in the Central Business District Until December 31, 2011 and at 90% of their Full Amounts Elsewhere in the City until December 31, 2010

Contact Person:

Name:	Joel Pullen	Wayne Morris
Title:	Planner II	Senior Planner
Dept.:	Community Development	Community Development
Phone:	510-494-4436	510-494-4529
E-Mail:	jpullen@fremont.gov	wmorris@fremont.gov

RECOMMENDATIONS (2011 expiration in CBD; 2010 expiration elsewhere):

1. Hold Public Hearing.
2. Adopt a Resolution to collect Development Impact Fees at 75% of their full amounts in the Central Business District until December 31, 2011 and at 90% of their full amounts elsewhere in the City until December 31, 2010.

ALTERNATIVE RECOMMENDATIONS (2011 expiration date for both):

1. Hold Public Hearing.
2. Adopt a Resolution to collect Development Impact Fees at 75% of their full amounts in the Central Business District and at 90% of their full amounts elsewhere in the City until December 31, 2011.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 RECREATION COMMISSION REFERRAL: SELECTION OF ARTIST FOR PUBLIC ART WORK AT FIRE STATION #2

Recreation Commission Referral Recommending the Selection of Vickie Jo Sowell as the Artist for the Public Art Work at Fire Station #2, 37299 Niles Boulevard

Contact Person:

Name:	Amy N. Rakley, AICP	Annabell Holland
Title:	Park Planning Manager	Director
Dept.:	Parks and Recreation	Parks and Recreation
Phone:	510-494-4363	510-494-4329
E-Mail:	arakley@fremont.gov	aholland@fremont.gov

RECOMMENDATION: Approve the selection of Vickie Jo Sowell for the public art work at Fire Station #2 (37299 Niles Boulevard), as described in Enclosure "A", (with the removal of the image of Pacific States Steel) and authorize the City Manager or his designee to enter into a \$26,400 agreement with the artist.

7.2 RESOLUTION AUTHORIZING APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDING FOR ASPHALT OVERLAY PROJECT

Adopt a Resolution Authorizing the Submittal of an Application to the Metropolitan Transportation Commission for the Federal American Recovery and Reinvestment Act of 2009 Funding for the Annual Asphalt Overlay Project (PWC 8234-H)

Contact Person:

Name:	Connie Wong	Norm Hughes
Title:	Senior Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510- 494-4782	510-474-4748
E-Mail:	cwong@fremont	lhughes@fremont.gov

RECOMMENDATIONS:

1. Adopt a resolution and authorize staff to submit an application to the Metropolitan Transportation Commission (MTC) for \$5,907,000 in funding from the federal American Recovery and Reinvestment Act of 2009.
2. When received, appropriate the amount in American Recovery and Reinvestment Act of 2009 funding approved by MTC in the amount of \$5,907,000 to the 2009 Citywide Asphalt Overlay Project, City Project No. PWC (8234-H).

7.3 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET UPDATE

Presentation of Updated Project Prioritization for the FY 2009/10-FY 2013/14 CIP
Based on Further Costing and Scoping and Revised Revenues

Contact Person:

Name:	Sean O'Shea	Norm Hughes
Title:	Management Analyst II	City Engineer
Dept.:	Engineering	Engineering
Phone:	510-474-4777	510-474-4748
E-Mail:	soshea@fremont.gov	nhughes@fremont.gov

RECOMMENDATIONS:

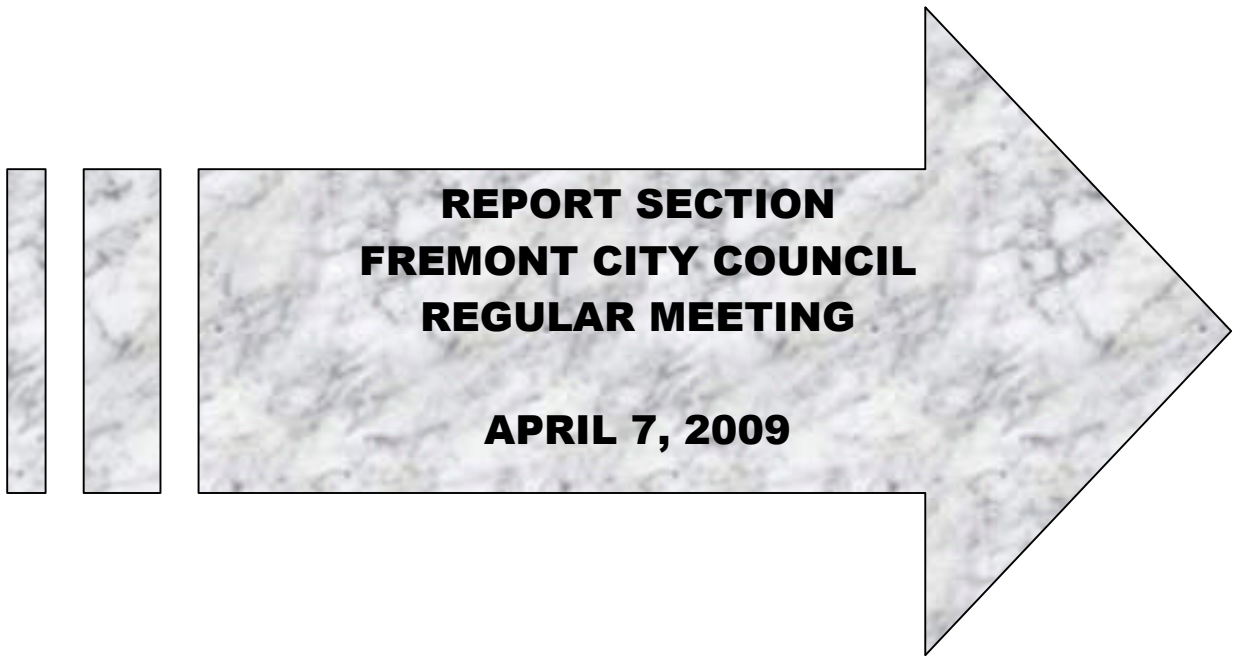
1. Provide comments to staff on the list of projects proposed for funding in the FY 2009/10 -2013/14 CIP.
2. Approve the close out of the capital projects identified on Enclosure B and return the remaining project appropriations to their respective funds.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



**REPORT SECTION
FREMONT CITY COUNCIL
REGULAR MEETING**

APRIL 7, 2009

***2.3 Second Reading and Adoption of an Uncodified Ordinance of the City of Fremont Authorizing Additional Extensions to Existing Building Permit Applications and Building Permits**

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

***2.4 Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located at 5339 Mowry Avenue from Thoroughfare Commercial (C-T) to Planned District 2009-156**

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

***2.5 Second Reading and Adoption of an Ordinance of the City of Fremont, Amending Fremont Municipal Code, Title II, Administration and Finance, Chapter 9, Purchasing Code, Article 4, Section 2-9404, Subsection F, to Temporarily Increase the Preference for Local Owned Businesses from 2.5% to 5% in City Purchases of Personal Property Exceeding \$25,000**

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Adopt ordinance.

***2.6 AWARD OF \$130,000 CONTRACT TO QUESTA ENGINEERING**

Authorize the City Manager to Execute a Not-To-Exceed \$130,000 Contract with Questa Engineering Corporation for Design and Permit Application Services Related to Creek and Habitat Restoration and Public Access Improvements at Sabercat Creek

Contact Person:

Name:	Barbara Silva	Kathy Cote
Title:	Supervising E.S. II	Environmental Services Manager
Dept.:	Transportation & Operations	Transportation & Operations
Phone:	510-494-4575	510-494-4583
E-Mail:	bsilva@fremont.gov	kcote@fremont.gov

Executive Summary: Staff is recommending the City Council authorize the City Manager to execute a not-to-exceed contract for \$130,000 with Questa Engineering Corporation for engineering design and permit application services related to creek and habitat restoration and public access improvements at Sabercat Creek. The restoration project will allow the City to complete critical creek bank stabilization and restoration, improve public access, and repair existing trails along Sabercat Creek. The \$1.8 million project is being funded through a \$1.2 million California River Parkways grant plus contributions from the Alameda County Flood Control District (ACFCD) and the City's Urban Runoff Fund.

Due to time, staff and budget constraints, the engineering design and permit application work will need to be outsourced. Proposals were solicited from approximately a dozen qualified firms and Questa was ranked the highest out of the five proposals received. Questa is highly experienced in creek restoration and biotechnical bank stabilization projects and has previously worked with ACFCD staff on similar projects.

Staff is recommending the City Council authorize the City Manager to enter into a contract with Questa Engineering not to exceed \$130,000. As their contribution to the Sabercat Creek project, Alameda County Flood Control and Water Conservation District will be reimbursing the City for Questa Engineering's work and is budgeting this reimbursement in FY 2009/10. In the meantime, Questa will be paid from the PWC funding already appropriated for this project. A City contribution of \$500,000 was previously authorized from Urban Runoff funds for the Sabercat Creek Water Quality Improvements as part of the FY 2007/08 – 11/12, Capital Improvement Program with \$350,000 appropriated for FY 2007/08 – FY 2008/09 (PWC 8658), and the remaining \$150,000 will be included in the current CIP budget process. There will be no General Fund impact.

BACKGROUND: The Sabercat Creek project area is unique because it is one of the last natural riparian areas in Fremont and provides urban open space with a large portion of the project area accessible by trail. Unfortunately, urbanization upstream has caused detrimental downstream changes in Sabercat Creek, including severe bank erosion, which threatens existing trail access and negatively impacts water quality. ACFCD wishes to fix the bank erosion due to heavy sediment loads flowing downstream. Time is of the essence since conditions may deteriorate with each passing rainy season and could be more costly to fix in the future.

The California River Parkway Grant Program provided an opportunity to fund the majority of the needed work, eliminating the need for project phasing. The City partnered with ACFCD and successfully obtained a California River Parkway Program grant in the amount of \$1.2 million, which will provide the majority of the capital funding needed for the \$1.8 million restoration project. ACFCD will contribute approximately \$200,000, with the City funding the remaining \$500,000 from Urban Runoff funds. This project includes biotechnical creek restoration and erosion control in addition to safety vehicle access, habitat improvements and improved public access along Sabercat Creek with a 1,250 foot trail connection under Paseo Padre Parkway.

Execution of the grant funding document by the State has been delayed due to the current State budget crisis. Staff is recommending moving forward with those initial elements of the project that were expected to be funded by the City or ACFCD. This will allow the project construction to proceed as previously scheduled in summer 2010, and would likely be less costly than delaying the project another year and potentially having to mitigate additional erosion. In the unlikely event the State grant funding is rescinded or reduced, the restoration project would probably be scaled back to focus on the biotechnical creek restoration and erosion control components. The proposed contract with Questa provides the City flexibility to reduce the scope of the design work if needed.

While the City is the lead agency on this project, ACFCD will be a partner and active participant. In the California River Parkway Program grant submittal, it was envisioned that ACFCD staff would complete the project design and permit application work; however, due to ACFCD staff resource and budgeting issues, ACFCD indicated their preference that the City outsource this work and request reimbursement in FY 2009/10. Details on ACFCD's role in the project and commitment to reimburse the City for the project design are outlined in a Memorandum of Understanding (MOU) with ACFCD, which is under development and will be brought to the City Council for consideration in May 2009. Due to the need to move this project forward quickly, staff is recommending the City proceed with the Questa contract now, rather than waiting until the MOU is finalized. In the unlikely event that the MOU is not finalized, and ACFCD does not reimburse the City for \$200,000, then the City's Urban Runoff funds will absorb these additional costs.

Discussion: Pursuant to a competitive procurement process, staff is recommending entering into a contract with Questa Engineering for engineering design and permit application services related to creek and habitat restoration and public access improvements at Sabercat Creek. Questa Engineering has a combination of creek restoration and public access trail design expertise, including biotechnical bank stabilization; stream and wetlands restoration, trail planning and design, aquatic habitat enhancement design; native riparian restoration. The firm has worked on over 50 creek-related projects over the last dozen years. They have worked with ACFCD in the past, including the Mission Creek Restoration project in Fremont.

Staff is recommending awarding a not-to exceed contract amount of \$130,000 and 2 years in duration; \$114,353 will be for specified tasks, while the remaining balance will be held as a contingency reserve. Its use will be subject to the project manager's approval. Questa Engineering will provide the following services:

- 1) Prepare Plans, Specifications, and Construction Cost Estimates (PS&E), with review of submittals and stakeholder check-in provided at the 40 percent, 75 percent and 90 percent completion stages;

- 2) Provide all permit application and coordination services, with permit submittals to the US Army Corps of Engineers, California Department of Fish and Game, and the Regional Water Quality Control Board;
- 3) Prepare a complete submittal package, including Construction Documents and Contractor Bid Sheets in an AutoCAD 2009 format;
- 4) Prepare an “As-Built Plan” of the completed project work;
- 5) All of the work for this project shall be completed by November 2010.

Due to the severity of the erosion, the City and ACFCD will need to move forward with the biotechnical creek restoration and erosion control components of the project even if grant funding is delayed or cut back. Staff recommends moving forward with the comprehensive design and permitting application process now and scaling back if needed, as opposed to delaying the project design or trying to complete the design and permitting in phases.

Funding – The Questa Agreement will have no impact on the General Fund. Funding will initially be provided from the funding appropriated to the Sabercat Creek Water Quality Improvements PWC, with reimbursement from the Alameda County Flood Control District in FY 2009/10.

Environmental Review: This project will be the subject of appropriate environmental review in conjunction with design development.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or his designee to enter into an agreement with Questa Engineering Corporation in the amount not-to-exceed \$130,000.

***2.7 ADDITIONAL FUNDING FOR THE FAMILY RESOURCE CENTER CARPET REPLACEMENT PROJECT**

Approval of Additional Funding for the Family Resource Center Carpet Replacement Project at 39155 Liberty Street, Fremont, CA 94538 (City Project No. PWC 8680)

Contact Person:

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Title:	Management Analyst II	Director
Dept.:	Human Services	Human Services
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Executive Summary: The purpose of this report is to request additional appropriation for the Family Resource Center Flooring Replacement project. Staff is also recommending that the City Council authorize the City Manager or his designee to increase the purchase order with Shaw Industries, Inc., in the amount of \$30,000, for a total amount of \$190,000.

BACKGROUND: The Family Resource Center (FRC), which opened its doors in 1999, is a collaborative effort of over 25 State, County, City, and non-profit social service organizations. Low and moderate-income families visit the FRC over 100,000 times per year. The carpet at the FRC is showing signs of wear and tear and it is reaching the end of its useful life. At the July 24, 2007 City Council meeting, the City Council authorized the City Manager or his designee to appropriate \$100,000 in unallocated FY 2007/08 CDBG funding to the City of Fremont FRC Project (City Project No. 105 PWC 8680) to replace carpet in the common area and Employment Development Department office located at FRC Building A-B-C-D. The Council also authorized the City Manager or his designee to accept Shaw Industries, Inc.'s bid through the State of California Multiple Award Schedule (CMAS), award a sole source construction contract with Shaw Industries, Inc., and execute the contract.

At the April 22, 2008 City Council meeting, the City Council appropriated an additional \$60,000 in FY 2008/09 CDBG funding to the project to replace carpet in the common area inside FRC Building E-F-G-H. At the February 27, 2009 City Council meeting, the City Council authorized the City Manager to issue a purchase order to Shaw Industries for carpet replacement at the FRC totaling \$160,000.

The original project budget was based on a contractor estimate that did not account for a section of the building that was within the original scope of work. A revised estimate that includes the omitted section requires an additional \$30,000 to complete the project. This amount also includes a 10% contingency for the entire project that was not included as part of the original proposal.

On March 5, 2009, the Citizens Advisory Committee (CAC) unanimously voted to concur with staff's recommendation to increase the appropriation for the FRC Flooring Replacement project in the amount of \$30,000, for a total amount of \$190,000.

As noted above, the City previously issued a purchase order to Shaw under a sole source arrangement using the California Multiple Award Schedule (CMAS) contract negotiated by the State of California with Shaw Industries for purchase and installation of carpeting. Public Contract Code Section 10298

authorizes the City to utilize State contracts to purchase goods, information technology and services without competitive bidding. The City's purchasing ordinance also allows the City to enter into an agreement based on the terms of an existing contract between the vendor and another public agency without a competitive solicitation where the City Manager makes the findings set forth in Fremont Municipal Code (FMC) Section 2-9702. Those findings were made in 2003 and continue to be applicable.

The City would be using the CMAS contract and, therefore, would be purchasing carpet on the same terms as the state contract. Because the State of California has substantially greater purchasing power than the City, the CMAS contract will allow the City to obtain carpeting at a reasonable and fair price.

Finally, utilizing the CMAS contract is consistent with the purpose and goals of the purchasing code as set forth in FMC Section 2-9102. The CMAS contract is structured to comply with California procurement codes, guidelines and policies.

ENCLOSURE: None

RECOMMENDATIONS:

1. Appropriate \$30,000 in unallocated FY 2008/09 CDBG funding for the FRC Flooring Replacement project (City Project No. 105 PWC 8680).
2. Authorize the City Manager or designee to increase the purchase order with Shaw Industries in the amount of \$30,000 for carpet replacement at the FRC for a total amount of \$190,000 using the CMAS contract No. 4-08-72-0008B.

***2.8 FISCAL YEAR 2009/10 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 FUNDS**

Resolution Authorizing Fiscal Year (FY) 2009/10 Transportation Development Act (TDA) Article 3 Grant Application and Acceptance of the TDA Article 3 Funds for Pedestrian Crossing Improvement Project on Deep Creek Road in the Vicinity of Ardenwood Elementary School

Contact Person:

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Executive Summary: The Metropolitan Transportation Commission (MTC) makes an annual allocation of State Transportation Development Act (TDA) Article 3 funds for bicycle and pedestrian projects to cities and counties in the nine-county Bay Area region. The City of Fremont is eligible for \$287,313 in TDA funds for the fiscal year (FY) 2009/10 fund cycle. Staff has identified the Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane as the highest priority project for the TDA Article 3 fund application. This segment of Deep Creek Road is in the vicinity of Ardenwood Elementary School. To complete the City's application, staff recommends that the City Council approve the proposed project and adopt a resolution authorizing the City Manager or his designee to apply for FY 2009/10 TDA Article 3 funds. If the City is awarded the grant funds, staff further recommends that the City Council authorize the City Manager or his designee to accept the TDA funds, and appropriate the award amount to the project.

BACKGROUND: The Metropolitan Transportation Commission (MTC) makes an annual allocation of State Transportation Development Act (TDA) Article 3 funds for bicycle and pedestrian projects to cities and counties in the nine-county Bay Area region. The City of Fremont is eligible for \$287,313 in TDA funds for the FY 2009/10 fund cycle. City staff has identified the Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane as the highest priority project for the TDA Article 3 fund application. This segment of Deep Creek Road is in the vicinity of Ardenwood Elementary School.

On October 15, 2008, the City's Bicycle and Pedestrian Technical Advisory Committee (BPTAC) approved and recommended to the City's Bicycle Advisory Committee (BAC) the Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane for the FY 2009/10 TDA Article 3 grant fund application submittal to MTC. Two school PTA members also attended the BPTAC meeting to speak in support of the project. At the February 4, 2009 BAC meeting, the BAC reviewed and approved the Pedestrian Crossing Improvement Project on Deep Creek Road for the City's TDA Article 3 grant application for FY 2009/10. The BPTAC consists of five bicycle and pedestrian advocates residing or working in Fremont and is advisory to staff. The City of Fremont Recreation Commission acts as the BAC and is advisory to Council.

Discussion: The proposed project's purpose is to implement traffic calming in the vicinity of Ardenwood Elementary School and Deep Creek Park. The project includes: 1) installation of curb bulb-outs to "choke down" the intersections of Deep Creek Road with Macbeth Avenue and with Emilia Lane. The bulb-outs will enhance pedestrian safety by narrowing the distance that pedestrians will have to cross and will also cause vehicles to slow down due to the narrow width of the roadway as they approach the two intersections; 2) installation of speed tables to elevate the crosswalks at the two intersections mentioned above, to improve the visibility of pedestrians in the crosswalk to the drivers approaching the intersections and cause vehicles to slow down at the crosswalks; and 3) construction of raised median along Deep Creek Road on some portions of the street segment between Macbeth Avenue and Emilia Lane to narrow (both physically and visually) the vehicle lane width as another measure to slow down vehicles along Deep Creek Road.

City records indicate that residents in the area have a history of requesting installation of traffic calming devices to improve safety for children trying to cross Deep Creek Road to access Ardenwood Elementary School and to help reduce the speeds on Deep Creek Road. Over the last several years, the City has made a number of traffic improvements in this area, and this project is part of the City's continuing effort to improve traffic safety in the area. Committee members at the BPTAC meeting and BAC meeting voted unanimously to approve this project.

The proposed project is within the City's right-of-way and should be ready for implementation within the next year (FY 2009/10), thus satisfying TDA Article 3 project readiness criteria. To apply for the funds, MTC requires the City's Bicycle Advisory Committee to select and rank potential projects and Council to adopt a resolution authorizing the City to apply for TDA Article 3 Funds.

Project Cost: The estimated cost for the project is \$400,000. The TDA Article 3 grant request is the full \$287,313 the City is eligible to receive, with the remaining \$113,000 to be appropriated from the Measure B Bicycle and Pedestrian funds in the City's FY 2009/10 CIP. The TDA fund request of \$287,313 spans two grant funding cycles (\$137,313 in the FY 2009/10 fund cycle and \$150,000 in the FY 2010/11) fund cycle. Staff elected to receive its FY 2010/11 funds in advance in order to complete the project in one funding cycle and to advance delivery of the project because of its importance. Additional TDA program funds were available to the City for the current funding cycle because other participating cities elected to defer their TDA funds to the next fund cycle. The City would "pay back" the funds in FY 2010/11 by not receiving any TDA funds in the FY 2010/11 fund cycle.

Environmental Impact: This project is categorically exempt under Section 15301 (c) of the California Environmental Quality Act, which cites the maintenance and minor alteration of existing facilities as being categorically exempt. A Notice of Exemption will be filed with the County Clerk.

ENCLOSURE: Draft Resolution

RECOMMENDATIONS:

1. Adopt a resolution authorizing the City Manager, or his designee, (a) to apply for Transportation Development Act Article 3 Funds in the amount of \$287,313 for the Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane for FY 2009/10; and (b) to accept any awarded grant funds for the Project and to execute any necessary implementing documents.

2. Appropriate any grant funds received to 107 PWC8698, Pedestrian Crossing Improvement Project on Deep Creek Road between Macbeth Avenue and Emilia Lane.

***2.9 FUND EXCHANGE AGREEMENT WITH THE CONGESTION MANAGEMENT AGENCY TO FUND STREET OVERLAY PROJECTS**

Authorize the City Manager to Execute a Fund Exchange Agreement for American Recovery and Reinvestment Act of 2009 (ARRA) Local Streets and Roads Funds for \$1,897,000 with the Alameda County Congestion Management Agency to Fund Street Overlay Projects

Contact Person:

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Executive Summary: The Alameda Congestion Management Agency (CMA) has established a Local Funds Exchange Program that allows member agencies of the CMA to exchange local funds for a slightly larger amount of federal funds. The CMA is applying this same strategy to the federal stimulus funding for local street and road projects whereby smaller cities would give up their federal stimulus funds in return for a smaller amount of non-federal funding. This will avoid the problems small cities expect to have meeting the very fast time frames for getting projects designed, approved and awarded within the federal requirements, while providing some additional funding for the larger cities that have to go through the federal process anyway to utilize their stimulus funding. Through the program, the CMA will exchange \$1.00 in federal funds for \$0.95 in local funds. Fremont's current fiscal year 2008/09 Overlay Project is funded by a combination of City gas tax, Measure B, and State Proposition 1B funds. The City is submitting an application to the Metropolitan Transportation Commission (MTC) for funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) in the amount of \$5,907,000. Of this amount, \$4,010,000 is the City's share of ARRA funds for local streets and roads and \$1,897,000 is ARRA exchange funds from other cities. The funds will be appropriated to the 2008/09 Citywide Asphalt Overlay Project (PWC 8234H). The CMA has agreed to exchange \$1,897,000 in federal funds for \$1,802,150 (95%) in State Proposition 1B funds allocated to the City for the 2008/09 Overlay Project. The net benefit to the City of this exchange is \$94,850 of additional funding for the street Overlay Project this fiscal year. In order to receive these funds, the City needs to execute a funding exchange agreement with the CMA. Staff recommends that the City Council authorize the City Manager to execute the enclosed Local Funds Exchange Agreement.

BACKGROUND: The Alameda Congestion Management Agency (CMA) has established a Local Funds Exchange Program that allows member agencies of the CMA to exchange local funds for a slightly larger amount of federal funds. Because of the very tight timelines required to use American Recovery and Reinvestment Act of 2009 (ARRA) funding, the CMA is concerned that smaller cities will not be able to complete the design and approval processes and award a contract in time to meet the federal deadlines and, therefore, risk losing the federal funding. Therefore, the CMA decided to use its exchange program approach for allocating ARRA funding in Alameda County. Through the proposed exchange program, the CMA will exchange \$1.00 in federal ARRA funds for \$0.95 in local funds. As one of the larger cities, the CMA asked Fremont to agree to accept ARRA funding from several smaller cities in exchange for a slightly smaller amount of State Proposition 1B local streets and roads funding.

Since the City would have to go through the federal process and meet the federal deadlines to use its share of the ARRA funding anyway, utilizing the additional ARRA funding through this exchange should have minimal impact on the City's project approval process.

Discussion: The City's current 2008/09 Overlay Project is funded by a combination of City gas tax, Measure B, and State Proposition 1B funds. The CMA has agreed to exchange \$1,897,000 of federal ARRA funds for \$1,802,150 (95%) in State Proposition 1B funds allocated to the 2008/09 Overlay Project (PWC8234H). The project funds will be used to overlay up to 13 street segments at various locations in the City. The enclosed funding exchange agreement (Enclosure A) requires the City to pay the CMA the 95% reimbursement not less than 10 days after the City receives the federal funding reimbursement for the project from Caltrans. Therefore, the City's Proposition 1B funds, which have already been received by the City, will remain in the City's account until such time that federal reimbursement is received, resulting in no loss in interest earnings to the City.

The exchange concept provides additional federal funds to larger cities in exchange for providing local funds, which would then be used to deliver the Local Streets and Roads (LSR) projects for the smaller cities that are not receiving federal funds. This will allow the Alameda County Program to deliver the Economic Stimulus LSR Program with fewer overall projects, and allow Caltrans staff (who act on behalf of the Federal Highway Administration on project approvals such as these) to focus on fewer obligation authority requests that are on highly accelerated schedules. CMA staff is willing to fund and provide project delivery assistance to the City, if required, as part of the exchange agreement.

By participating in the CMA Local Funds Exchange Program, the City will receive an extra \$94,850 for the current street overlay program. In order to receive these funds, the City needs to execute a funding exchange agreement with the CMA. Staff recommends that the City Council authorize the City Manager or his designee to execute the enclosed Local Funds Exchange Agreement.

ENCLOSURE: CMA Local Funds Exchange Agreement B09-xxx for \$1,897,000

RECOMMENDATION: Authorize the City Manager or his designee to execute CMA Local Funds Exchange Agreement B09-xxx as described in this staff report.

***2.10 APPROVAL OF LOCAL ALTERNATIVE TRANSPORTATION IMPROVEMENT PROGRAM (LATIP) PROJECT LIST ASSOCIATED WITH THE EAST-WEST CONNECTOR (ROUTE 84) PROJECT**

Adoption of a Resolution to Approve the State Route 84 Historic Parkway Local Alternative Transportation Improvement Program (LATIP) Project Priority List Associated with the East-West Connector Project and Required to Fund the I-880/Mission Boulevard Interchange Project Phases 1B and 2

Contact Person:

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Executive Summary: AB 1462 provides for the use of revenues from the sale of excess property, originally purchased for improvements on State Route 84 that are no longer feasible, to fund a Local Alternative Transportation Improvement Program (LATIP), subject to approval by the California Transportation Commission. A Technical Advisory Committee consisting of representatives from the Cities of Fremont, Newark and Union City, Alameda County CMA, ACTA and Caltrans developed and approved the enclosed LATIP Project priority list. The purpose of the LATIP Project list is to identify and prioritize a list of transportation congestion relief projects in the same general corridors that would have benefited from the original Route 84 project and that can be constructed in the next 5 to 10 years. Local agency resolutions of support for the LATIP are required to demonstrate to the CTC that local consensus has been reached on the priority of alternative projects.

The prioritized LATIP Project list includes Fremont's top priority projects as the second and third priorities following only Caltrans' cost of selling the excess land. Staff believes the LATIP list is consistent with the East-West Connector MOU, and its approval is required for the I-880/Mission Boulevard Interchange Project to proceed. Therefore, staff is recommending Council adopt a resolution approving the State Route 84 Historic Parkway Local Alternative Transportation Improvement Program.

BACKGROUND: In May 2005, the Council agreed to support AB 1462 (Torrico) that amended SB509 to authorize the sale of surplus property related to State Route 84 in Fremont and Union City. AB 1462, as approved, authorizes the sale of any surplus property owned by the State that is currently designated to be included in State Highway Route 84 between Routes 238 and 880 (the Historic Parkway). The legislation calls for the proceeds to be used for a "Local Alternative Transportation Improvement Program (LATIP) that addresses transportation problems and opportunities in the county which were to be served by the planned facilities."

In April 2006, Council approved entering into a Memorandum of Understanding (MOU) for the Funding and Delivery of the I-880/Route 262 (Mission Boulevard)/Warren Avenue/BART Accommodation Project in Fremont, and Local Roadway Improvement (Option 2) Project in Fremont and Union City, By and Between the Alameda County Transportation Improvement Authority, the California Department of Transportation, and the Cities of Union City and Fremont. The MOU documents each agency's

conditions for proceeding with the Route 84 Option 2 (now called the East-West Connector Project) environmental document, design development and construction of the East-West Connector Project. The MOU also outlines the funding connection and funding requirements for the East-West Connector Project and the I-880/ Mission Boulevard Interchange Project.

According to the MOU, if, following review of the final environmental document, the East-West Connector Project is approved and proceeds to design and construction, all parties agreed to support the use of AB 1462 funds (from the sale of the excess Route 84 property) for the following projects in priority order: 1) the Mission/880 Interchange Project; 2) improving existing State Route 84 prior to relinquishment; 3) for use on Route 238 at the intersection with the East-West Connector Project; 4) for the other parts of State Route 238 related to the East-West Connector in Union City and Fremont; and 5) after those uses, for a priority list of projects to be developed by ACTA, Fremont, Union City and Caltrans.

In September 2008, the Council agreed to support SB 791 (Corbett) that allows the East-West Connector Project to be eligible to use AB 1462 revenue generated from the sale of excess property in the historic Route 84 Corridor.

Discussion: Senate Bill 509, signed into law in September 2004, Assembly Bill 1462, signed into law in October 2005, and Senate Bill 791, signed into law in October 2008, collectively amended Government Code Section 14528.5 and added Government Code Section 14528.55, providing for the use of revenues from the sale of excess property, originally purchased for improvements on State Route 84 that are no longer feasible, to fund a Local Alternative Transportation Improvement Program (LATIP), subject to approval by the California Transportation Commission (CTC). The current statute requires that the LATIP must be approved by the CTC prior to July 2010; additionally, it must be approved prior to Caltrans selling the excess right-of-way purchased for the original Route 84 project or the funds will revert to the State Highway Account and will not be exclusively available for LATIP projects in Alameda County. The sale of the excess right-of-way is currently estimated to generate revenue of \$50 to \$100 million.

A Technical Advisory Committee consisting of representatives from the cities of Fremont, Newark and Union City, Alameda County CMA, ACTA and Caltrans developed and approved the enclosed LATIP Project priority list. The purpose of the LATIP Project list is to identify and prioritize a list of transportation congestion relief projects in the same general corridors that would have benefited from the original Route 84 project and that can be constructed in the next 5 to 10 years. Local agency resolutions of support for the LATIP are required to demonstrate to the CTC that local consensus has been reached on the priority of alternative projects. Caltrans consensus and support will be documented separately through the approval of a LATIP Project Initiation Document (PID).

With two exceptions, the LATIP Project list is consistent with the project priorities called for in the East-West Connector MOU. First, funding must be made available off the top to offset Caltrans costs of selling the excess property at an estimated cost of approximately \$3-4 million. Second, with the passage of SB 791, the East-West Connector Project became eligible for AB 1462 funding and has been proposed to be placed fourth on the list following the City of Fremont's two priority projects. Staff does not believe that the land sale will result in funding beyond the fourth priority project.

If the East-West Connector Project EIR is approved, Caltrans and ACTA will submit the prioritized LATIP Project list to the CTC for approval in the summer of 2009, accompanied by the local resolutions and the approved Caltrans PID. If approved by the CTC, ACTA staff will ask its Board to advance the \$42.35 million of AB 1462 funds for completion of the I-880/Mission Boulevard Interchange Project, thus allowing the Project to be advertised for bids later this year.

The prioritized LATIP Project list includes Fremont's top priority projects as the second and third priorities following only Caltrans' cost of selling the excess land. Staff believes it is consistent with the East-West Connector MOU, and has the support of staff from all four agencies that signed the MOU. Approval of the LATIP is also required for the I-880/Mission Boulevard Interchange Project to proceed. Therefore, staff recommends Council adopt a resolution approving the State Route 84 Historic Parkway Local Alternative Transportation Improvement Program.

ENCLOSURES:

- A - State Route 84 Historic Parkway LATIP Prioritized LATIP Project List
- B - Draft Resolution

RECOMMENDATION: Adopt the enclosed resolution approving the Local Alternative Transportation Improvement Program (LATIP) Project list as shown in the enclosed table and described herein.

***2.11 TASK ORDER NO. 4 TO JOINT POWERS AGREEMENT WITH FUSD**

Approve Task Order No. 4 to the Joint Powers Agreement with Fremont Unified School District for the Provision of School-Site Mental Health Services in FY 2008/09

Contact Person:

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Executive Summary: The purpose of this report is to recommend that Council authorize the City Manager or designee to execute Task Order No. 4 to the existing joint powers agreement with Fremont Unified School District, approved by the City Council on April 25, 2006, for the Youth and Family Services Division of the Human Services Department to provide mental health services in FY 2008/09 in an amount not to exceed \$103,950.

BACKGROUND: The Youth and Family Services (YFS) Division of the Human Services Department has provided a variety of counseling services to FUSD for many years. The largest program, Healthy Choices school-site counseling program, provides counseling services at 20 Fremont school sites to approximately 450 children a year by utilizing volunteer clinical interns or trainees in the process of completing their required supervised practice hours. In addition to the unpaid clinical interns, one YFS staff counselor has been assigned to work at the Robertson High School campus four days per week when school is in session. YFS charges a fee per school site to help cover the costs associated with the recruitment, training and supervision of the clinical interns. These fees are paid by the schools utilizing school site funds or by the District utilizing State funds available through the Safe and Drug Free Schools program. YFS also utilizes funds available through EPSDT/Medi-Cal and the City's contract with Alameda County Probation to support eligible services for students.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to execute Task Order No. 4 to the existing joint powers agreement with Fremont Unified School District for the Youth and Family Services Division of the Human Services Department to provide mental health services in FY 2008/09 in an amount not to exceed \$103,950.

***2.12 NEIGHBORHOOD STABILIZATION PROGRAM JOINT AGREEMENT**

Approval of Joint Agreement between the Cities of Fremont, Alameda, Berkeley, Livermore, San Leandro, and Union City to Participate in the Neighborhood Stabilization Program

Contact Person:

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Executive Summary: The purpose of this report is to request the City Council's approval for the City Manager or his designee to execute a Joint Agreement with the cities of Alameda, Berkeley, Livermore, San Leandro, and Union City to participate in the Neighborhood Stabilization Program.

BACKGROUND: The Housing and Economic Recovery Act of 2008 includes a total of \$3.9 billion in U.S. Department of Housing and Urban Development (HUD) federal block grant funds to support the Neighborhood Stabilization Program (NSP). The purpose of this funding is to rejuvenate neighborhoods and communities that are hardest hit by the foreclosure crisis and allows localities to renovate and rehabilitate those homes, eliminating blight and reinvigorating and stabilizing the affected neighborhoods through the NSP. Eligible uses of NSP funds are as follows:

1. Purchase and rehabilitate homes to sell, rent or redevelop
2. Create land banks for homes that have been foreclosed upon
3. Demolish blighted structures
4. Redevelop demolished or vacant properties
5. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties

The U.S. Department of Housing and Urban Development (HUD) allocated this money to every state and certain local communities based on the following greatest needs:

1. Number and percentage of home foreclosures;
2. Number and percentage of homes financed by a subprime mortgage-related loan; and
3. Number and percentage of homes in default or delinquent on their mortgage payments.

The City of Fremont is not a direct recipient of NSP funds from HUD based on the above criteria. The State of California, along with certain California counties and cities, including the City of Oakland and Alameda County, received a direct HUD allocation totaling \$529,601,773 in NSP grant funds for the distribution of funds to Urban County jurisdictions and unincorporated areas. Of this amount, approximately \$145,000,000 was awarded to the State to distribute to cities and counties that did not receive a direct allocation. To determine NSP allocations, the State identified the geographic areas of greatest need based on criteria similar to that of HUD.

The State distributed a portion of its funding to these areas in greatest need that did not receive a direct allocation from HUD, known as Tier 1 recipients (NSP allocation over \$1 million). In Alameda County, the City of Hayward is the only city that was designated as a Tier 1 recipient. The cities of Fremont, Alameda, Berkeley, Livermore, San Leandro and Union City were designated as Tier 2 cities (NSP allocation less than \$1 million) within Alameda County (see chart below):

Eligible Funds by City	
Alameda	\$113,566
Berkeley	\$177,335
Fremont	\$638,964
Livermore	\$356,115
San Leandro	\$559,007
Union City	\$499,073
Total Eligible Funds:	\$2,344,060

To apply for State NSP funds, Tier 2 cities within the same county are required to enter into a joint agreement to reach a minimum threshold of \$1 million. Representatives from the cities listed above met and agreed to submit a joint application to the State, with the City of Livermore as the lead agency. After approval of the joint agreement, the City of Livermore will submit an application to the State for NSP funds on behalf of the partner jurisdictions. The City of Livermore will assume responsibility for administering the State NSP grant on behalf of all entities in the joint agreement, and for complying with applicable program requirements.

The City's Neighborhood Stabilization Program will provide one-time assistance for a non-profit housing developer or other eligible entities to carry out NSP-eligible activities to benefit individuals and families whose incomes do not exceed 120% of area median income. The City will not own any properties acquired by NSP funds, nor would it be responsible for ongoing maintenance and operating costs incurred by the NSP property(ies).

Depending on the availability and affordability of foreclosed properties in Fremont, there may be a possibility that the City can use its own allocation to undertake NSP eligible activities within its own jurisdiction. Between November 2008 and February 2009, there were a total of sixty foreclosed properties in Fremont, which averaged one foreclosure per day. Furthermore, as of February 27, 2009, there are a total of one hundred and twenty-six (126) bank real estate owned (REO) properties and short sales in Fremont. This represents 35% of the total active residential property listed.

Another possibility for the use of the NSP funds is to support one or more regional projects by combining the funds allocated to several cities in order to serve residents from multiple jurisdictions. This would allow the City to continue to play a leadership role and to work collaboratively with other organizations to maintain and expand the range of housing alternatives in Fremont and the Bay Area. This is consistent with the City's Housing Goals and Policies.

Regardless of where the project(s) will reside, the NSP program will benefit Alameda County individuals and families whose incomes do not exceed 120% of area median income by undertaking one or more eligible activities as previously described.

ENCLOSURE: Draft Resolution

RECOMMENDATION: Adopt a resolution authorizing the City Manager or his designee to execute a Joint Agreement with the Cities of Alameda, Berkeley, Fremont, Livermore, San Leandro and Union City to participate in the Neighborhood Stabilization Program.

***2.13 ADOPTION OF A RESOLUTION APPROVING A RECORDS RETENTION SCHEDULE FOR THE MAINTENANCE SERVICES DIVISION, AND APPROVING THE ADDITION OF A NEW SECTION TITLED, GENERAL ADMINISTRATIVE FILES, FOR ALL RETENTION SCHEDULES, AND REVISIONS TO THE CITY ATTORNEY’S OFFICE AND CITY CLERK’S OFFICE RETENTION SCHEDULES**
Adoption of a Resolution Approving a Records Retention Schedule for the Maintenance Services Division and Approving the Addition of a New Section Titled, General City Administrative Files, for all Retention Schedules, and Revisions to the City Attorney’s Office and City Clerk’s Office Retention Schedules

Contact Person:

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Executive Summary: In accordance with the provisions of the Records Management Program Policy adopted by the City Council on April 27, 2004 (Resolution No. 2004-24), staff has been working to complete records retention schedules for all City departments. As each retention schedule is adopted for a department, the Council will no longer be required to consider requests for destruction of obsolete records from that department because it will have delegated the authority for the determination to the City Manager and City Clerk in accordance with the provisions of the Records Management Program Policy. Staff has been engaged in creating a retention schedule for the Maintenance Services Division. At this time, Council is being asked to approve a retention schedule for this division and to authorize the City Attorney to approve destruction of records for the Maintenance Services Division, in accordance with the proposed Resolution and enclosed Records Retention Schedule. This completes the final phase of the creation and adoption of original Records Retention Schedules for all City departments.

Council is also being asked to approve changes that are required for the original City Attorney’s Office, and City Clerk’s Office retention schedules, and to approve the addition of a new section, General City Administrative Files, to the retention schedules for the City Attorney’s Office, City Clerk’s Office, City Manager’s Office, Community Development, Economic Development, Finance, Fire, Human Resources, Human Services, Information Systems, Office of Housing & Redevelopment, Parks & Recreation, Police, and Transportation & Operations Departments Records Retention Schedules.

BACKGROUND: Public agencies manage several types of records. Some serve historical purposes; some, such as contracts, are vital to the agency’s business interests; and, others are routine documents used to conduct day-to-day business. Section 34090 et seq. of the Government Code defines some of the requirements for the management of records by the city governments in California. There are specific laws governing the retention and destruction of certain records based on the type of record. For certain other records, the agency may set its own schedules to meet its own business purposes or local public interests. The statutes provide that the City may avail itself of several alternative systems for managing its records programs. One alternative allows the City Council to delegate decisions regarding the retention and destruction of records to staff once a compliant Records Management Program Policy and

a Records Retention Schedule for the various record types are in place. On April 27, 2004, the City Council adopted Resolution No. 2004-24, approving the Records Management Program Policy for the City of Fremont (hereafter referred to as the Policy), and authorizing the City Manager and City Clerk to oversee the management of the Records Management Program.

The Policy defines how records are to be maintained in compliance with the statutes and any specific directives of the Council relative to record keeping. An element of the Policy is a Records Retention Schedule (hereafter referred to as a Schedule). A Schedule is a comprehensive inventory of records under management by a city department. A Schedule describes each record type and a retention period for each type. Specific state or federal statutes that require certain minimum or maximum retention periods often define retention periods. Variations in the retention periods, as allowed by statute, are often recommended by staff to meet various public or business interests.

The Policy provides that departments are required to report to the City Clerk and the City Attorney on a periodic basis which records have reached the end of their retention periods, and request the destruction of those records. Once the City Clerk's Office and the City Attorney's Office validates that records proposed for destruction fit the appropriate definitions in the Retention Schedule and are due for destruction, they will approve the action and the documents will be destroyed. Records Retention Schedules have been completed for the City Attorney's Office, City Clerk's Office, City Manager's Office, Community Development, Economic Development, Finance, Fire, Human Resources, Human Services, Information Systems, Office of Housing & Redevelopment, Parks & Recreation, Police, and Transportation & Operations Departments. Over the next year and as the need arises, staff will return to Council with additional changes that are required to revise and amend original departmental Retention Schedules.

Conclusion: Staff is recommending that Council approve the Maintenance Services Division Retention Schedule; approve revisions to the original City Attorney's Office and City Clerk's Office retention schedules, and to approve the addition of a new section, General Administrative Files, to the retention schedules for the City Attorney's Office, City Clerk's Office, City Manager's Office, Community Development, Economic Development, Finance, Fire, Human Resources, Human Services, Information Systems, Office of Housing & Redevelopment, Parks & Recreation, Police, and Transportation & Operations Departments Records Retention Schedules; and authorize the City Manager or designee to process those records in accordance with the Retention Schedule, subject to the review and consent of the City Attorney.

FISCAL IMPACT: None

ENCLOSURES:

- Records Retention Schedule for the Maintenance Services Division
- Revised Retention Schedules for the City Attorney's Office and the City Clerk's Office
- General City Administrative Files

RECOMMENDATION: Adopt a Resolution approving the Maintenance Services Division Retention Schedule; approve revisions to the City Attorney's Office and the City Clerk's Office retention schedules, and to approve the addition of a new section, General Administrative Files, to the retention schedules for the City Attorney's Office, City Clerk's Office, City Manager's Office, Community

Development, Economic Development, Finance, Fire, Human Resources, Human Services, Information Systems, Office of Housing & Redevelopment, Parks & Recreation, Police, and Transportation & Operations Departments Records Retention Schedules; and granting approval for the destruction of records in accordance with the Retention Schedule, subject to the review and consent of the City Attorney.

***2.14 POLICE DEPARTMENT ENTERTAINMENT LICENSE APPLICATION FEE**
Public Hearing (Published Notice) to Set the License Application Fee Amount for Class
One Places of Entertainment

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Executive Summary: This report recommends that the City Council set the license application fee for specified services provided by the Police Department, related to the regulation of Class One Places of Entertainment. Staff will monitor the annual costs and fees for this service in order to ensure that the fees charged do not exceed the cost of providing the specified services. The fee proposed in this report does not generate excess revenue, but rather is intended to cover expenses the Police Department's budget will bear with the implementation of the new program. Staff recommends that the City Council approve the new license fee for police services effective April 7, 2009, as described in this report.

BACKGROUND: On January 27, 2009, the City Council adopted FMC Ordinance 4-2009, regulating the operation of Class One Places of Entertainment (POE). The Ordinance became effective on February 26, 2009. The new licensing regulation enables the Police Department to monitor and impose conditions on the operating aspects of each POE in order to reduce negative effects and preserve the health and safety of the community. The new licensing process will require applicants to provide detailed information on the proposed operation of the Class One POE, including but not limited to the detailed management operation plan of the business as well as the qualifications the applicant has to operate such a business. The information provided in the application will be used by the Police Department to determine whether or not to issue a POE license and, if issued, the appropriate operating conditions.

Staff contacted several police agencies in California which have established similar licensing programs in an effort to develop Fremont's process to license Class One POEs. Research also included a survey of fees associated with each program, and is displayed in the chart below. Based on this research, the Chief of Police has assigned management of the licensing program to the Community Engagement Unit Manager, under the Investigative and Special Operations Division. Six positions in the department will be collectively responsible for the implementation of the program: the Investigative and Special Operations Captain, Lieutenant, and Sergeant; Special Investigator to the Chief; Community Engagement Manager and Community Engagement Support Specialist. This team will review and formulate recommendations on license applications for the Police Chief, who will make the final decision to approve or deny the application.

The staff time required to process each application is estimated at a minimum of approximately 16 hours plus an additional 1.5 hours for each individual background check. The hourly rate calculated and used to establish the new fee included individual base salary, benefits, and department and citywide overhead for each of the identified employees. On average, the proposed fee estimate is based on each individual

spending approximately 2 - 4.5 hours on each application, as it relates to the employee's specific role or responsibility in the program.

It is important to mention the costs proposed are only associated with the staff time spent on the front-end of the POE license program. Costs associated with the ongoing regulation and compliance of the license are not proposed at this time. Staff will monitor these costs in the first year of the program and will propose additional costs, if any, during the Police Department's annual fee schedule update in 2010.

The proposed fee is as follows:

Entertainment Permit Application License Fee (two-part fee – Background/Application)

- a. POE Background Investigations for each Applicant and/or Responsible Person
 - 1) New (expires two years from issue) \$ 146.00
 - 2) Renewal (every two years) \$ 146.00
- b. POE Application License Fee
 - 1) New (expires two years from issue) \$1,709.00
 - 2) Renewal (every two years) \$1,709.00

In addition, there is a fee proposed for processing license modifications.

- c. POE Modification License Fee \$ 877.00
(May not exceed Application License expiration date and is required to modify current licensing conditions, based upon changes to POE operations)

Each Applicant and Responsible Person may also be required to pay additional fees for fingerprint services the Police Department does not currently provide. Staff is exploring development of a fee-based fingerprint service, that the Department may offer in the future. Providing this service would help expedite the process time for the Applicant, as well as make it more convenient.

The City has approximately seven businesses currently operating as a nightclub. Staff anticipates receiving two applications, one for a new establishment and one for an existing business that has triggered the threshold requirements as described in the ordinance. Therefore, staff estimates receiving two POE applications in the first year and one or two in the second. In the event a new or existing Conditional Use Permit (CUP) is modified or approved to operate as a Class One POE, the number of applications could increase.

Research into other California law enforcement agencies requiring POE license services reveals the following:

City	License Term	License Fee	Background Fee	Comments	Minimum Total Fee
Los Angeles	1 year	\$450	\$100 /ea.		\$550/ 1 yr
Concord	1 year	\$200	\$41 /ea.	Background process consists of fingerprint	\$241/ 1 yr

City	License Term	License Fee	Background Fee	Comments	Minimum Total Fee
				check only	
Long Beach	1 year	\$1300	\$300		\$1600/ 1 yr
San Jose	2 year	\$2,090 + \$1.12 sq/ft	N/A	Currently proposing cost-sharing for patrol services	\$2090/ 2 yr
Fremont *	2 year	\$1709	\$146/ea.	Modification fee of \$877	\$1855/ 2 yr
San Diego	1 year	\$1840	\$55/ea.		\$1895/ 1 yr
Sacramento	2 year	\$756	\$59/ea.		\$815/ 2 yr
San Francisco	2 year	\$1819	\$50/ea.	Amendment fee of \$660	\$1869/2 yr

* Proposed

Financial Impact: Without approval of a cost-covering police service fee to process Class One Place of Entertainment License Applications, a negative fiscal impact to the City would result. Staff estimates a negative financial impact equal to approximately 50 staff hours involving at a minimum 6 full-time employees in year one for processing two applications (2 applications + 8 background investigations). Should staff receive additional applications, the cost would significantly increase and have a direct impact on the staff involved and the overall operations of the Department.

ENCLOSURE: Draft Resolution

RECOMMENDATION: Staff recommends City Council adopt a resolution setting the Class One Entertainment License Fees for police services, as described above, effective April 7, 2009.

***2.15 FREMONT JAIL BOOKING FEE AND JAIL ACCESS FEE EFFECTIVE JULY 1, 2008**
Continuation of Public Hearing (Published Notice) to Consider Proposed Jail Fees to
Neighboring Agencies Retroactive to July 1, 2008

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Executive Summary: State law requires cities to use a statutory formula to determine jail booking service fees. The method and formula has changed in each of the last several years. Interpreting these legislative changes is challenging and requires collaboration with Alameda County Sheriff's Department representatives to fully understand and effectively implement. Two different jail fees are allowable for FY 2008/09. One is a provision to recover the 10% reduction in booking fee reimbursement from the State due to a reduction in the State Budget. This is commonly referred to as a Jail Booking Fee. Recovery of this 10% revenue gap is new this year. The other, called a Jail Access Fee, was in effect last fiscal year and again this year. This fee is charged for any agency that books prisoners into a specific jail once bookings for certain offenses exceed the average of the three prior years. As an example, Fremont exceeded this three-year threshold last fiscal year at the Santa Rita Jail and paid booking fees for May and June 2008. Fremont did not invoice neighboring cities for booking fees for the limited specific offenses last year, as authorized under the legislation at the time, reflective of activity levels and the three-year average.

Fremont's share of the State Booking Fee reimbursement this fiscal year is \$225,241. This is a 10% reduction from last year. The City is able to charge agencies that book into Fremont's Detention Facility a fee to recover the 10% lost revenue. A Jail Booking Fee of \$12.30 is proposed to become effective retroactively to July 1, 2008. Actual recovery will depend on the number of booking transactions at the Fremont Detention Facility this year by Newark Police Department and Union City Police Department. A Jail Access Fee of \$247.25 is being proposed to be effective retroactively to July 1, 2008.

BACKGROUND: Legislative changes around charges for booking fees have occurred over the past several years. Based on this legislation, there are two booking fees to be considered:

JAIL BOOKING FEE - To recover the 10% reduction in the State Booking Fee reimbursement for FY 2008/09, Assembly Bill 1805 allows a Jail Booking Fee to be collected. The 10% Recovery Booking Fee set by the Alameda County Sheriff's Department and used at the Santa Rita Jail Facility in Dublin is \$12.30 for a full booking. Staff proposes to charge the same fee for full bookings that are brought into the Fremont Detention Facility by neighboring agencies.

JAIL ACCESS FEE - Assembly Bill 1805 also allows for a Jail Access Fee to be collected based on an average of the three prior years for non-felony, municipal code and misdemeanor offenses, except for driving under the influence and domestic violence misdemeanor offenses including enforcement of protective orders by each agency delivering individuals for incarceration. The Jail Access Fee set by the

Alameda County Sheriff's Department and used at the Santa Rita Jail facility in Dublin is \$254.90 for a full Jail Access Fee Booking if and once the three year average is exceeded. To remain competitive, the Fremont Detention Facility Jail Access Fee is proposed at \$247.25, a rate of 3% less than the County Jail Access Fee. A 3% reduction in the full booking rate was charged in the past to potentially act as an added incentive for neighboring agencies to continue booking at the Fremont Detention Facility in the future.

ENCLOSURE: Draft Resolution

RECOMMENDATION: Adopt a resolution approving the Jail Booking Fee at the Fremont Detention Facility to be \$12.30 and the Jail Access Fee to be \$247.25 retroactively beginning July 1, 2008, and for neighboring cities to be invoiced for services accordingly.

5.1 DEVELOPMENT IMPACT FEES--CITYWIDE

Public Hearing (Published Notice) to Consider a Resolution to Collect Development Impact Fees at 75% of their Full Amounts in the Central Business District Until December 31, 2011 and at 90% of their Full Amounts Elsewhere in the City until December 31, 2010

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Executive Summary: On March 3, 2009, staff presented a comprehensive local business stimulus package designed to support existing businesses and to provide incentives for establishment of new businesses during the current severe financial crisis. Council asked staff to return quickly with a resolution to collect development impact fees ("impact fees") at 75% of their full amount in the Central Business District (CBD) until December 31, 2011, and at 90% of their full amount elsewhere in the City until December 31, 2010. This proposed action does not permanently change the impact fee amounts, but is one component of a temporary fee relief strategy intended to facilitate the construction of projects and encourage establishment of new businesses to stimulate the local economy.

BACKGROUND: *Economic Downturn* - Since fall 2008, continuing foreclosures, bank failures, job losses, and a falling stock market have accelerated a nationwide recession that began in December 2007. Residential and, increasingly, commercial developers have lost their financing and been forced to reassess project feasibility due to a decline in appraised property values, increased instability within financial institutions, and resultant conservative lending practices.

Project Description: The City charges impact fees, which were last updated effective March 2008, in order to fund new street improvements, public buildings, fire stations, and parks attributable to the impacts of each project. Staff proposes a draft resolution to collect impact fees at 75% of their full amount in the CBD until December 31, 2011, and at 90% of their full amount elsewhere in the City from adoption of Council resolution until December 31, 2010. New projects and those already in the system that have not yet been issued building permits would be permitted to pay the new fee for building permits issued during this time period. If no further action is taken in the interim, the City would begin collecting the full fee again on January 1, 2012 in the CBD and January 1, 2011 elsewhere in the City.

Project Analysis: The proposed action is to temporarily collect City development impact fees at amounts less than those established in the comprehensive fee update approved by Resolution No. 2008-3, adopted on January 22, 2008. This action does not establish new impact fees or increase existing fees and, therefore, the requirements of the Mitigation Fee Act (Government Code Sections 66000 et. seq) and Municipal Code provisions in Title VIII Chapter 9 for establishment of new or increased fees do not apply. By taking the recommended action, the City would choose to temporarily forego accepting 25% of the full amount of the impact fees in the CBD and 10% of the full amount of the impact fees elsewhere in the City in order to spur development. This will not affect the collection of fees by other agencies, such as the School District.

Fiscal Analysis: Approximately \$11 million in total impact fees were collected during the 2007/08 fiscal year. Staff estimates that, because of the lack of construction and the large number of building permits waiting for financing and construction, the total impact fees the City expects to collect will be substantially reduced. With this stimulus package in place, staff expects to lose about \$1.0-\$1.5 million per year in opportunity costs. This amount assumes a baseline level of construction activity that is approximately 1/3 less than the amount collected in the previous fiscal year, since current applications have declined about that amount. Staff will return to Council within a year with an update on the amount of forgone fees.

Reducing collection of impact fees represents the most direct and substantial way that the City has at its disposal to immediately improve the feasibility of current development activity. Staff proposed this reduction of 25% in the CBD and 10% elsewhere in order to balance these competing needs in a measured way. In order to examine the specific effects of the 25% and 10% lower fee collection rates, see Enclosure 2, which compares current and previous impact fees to the proposed temporary collection rates. Table 1, below, illustrates the effect of a fee reduction on sample projects. The 75% collection rate is similar to the amounts collected prior to 2008, depending upon the type and size of the project.

Table 1: Sample Development Impact Fees

<i>Development Type</i>	<i>2008 Impact Fees*</i>	<i>90% collection rate (fee savings)</i>	<i>75% collection rate (fee savings)</i>	<i>2006 Fees</i>
1 single-family house	\$36,694	\$33,024.60 (-\$3,669.40)	Not permitted by zoning in C-B-D	\$31,050
32,600 s.f. medical offices	\$406,750.20	\$366,075.20 (-\$40,675.02)	\$305,062.70 (-\$101,687.55)	\$370,988
38 multifamily units	\$1,028,546	\$925,691.40 (-\$102,854.60)	\$771,409.50 (-\$257,136.50)	\$801,496

**City impact fees only.*

The CBD: While the impact fees collected are not segregated geographically (funds collected in the CBD are spent citywide), the CBD has been a high priority development area for the Council. The CBD is a strategically important area of the City. In recognition of this, the City has made a concerted effort over the past ten years to plan and develop the Central Business District. In May 1998, the City Council directed Planning staff to prepare a Concept Plan for the Central Business District, which was adopted by the City Council in November 2001.

The vision as stated in the Central Business District Concept Plan for the “Focus Area” is to create a hub of activity by having the area “contain a mix of uses including retail, offices, entertainment, open space, and cultural arts organized around a main street.” This main street, to be constructed on Capitol Avenue and an extension of it to Fremont Boulevard, will be an attractive place to shop, stroll, and dine, and will become the true center to the focus area.

Development of the CBD in accordance with the Concept Plan requires a strong public-private partnership. The City has previously allocated over \$5 million toward this effort. Over the years, the City has actively pursued economic development opportunities in the CBD with different developers but

was not successful until August 2008, when a Memorandum of Understanding was executed with TMG Partners for planning and development of the Capitol Avenue Project.

Infill construction in the CBD tends to be more expensive due to the complexities of staging in a congested area, the City's desire for parking structures, and the need for reconstructed utilities and enhanced streetscapes. Consequently, staff is recommending that the CBD enjoy a stronger and longer term incentive to develop than the City as a whole.

Ongoing Review of Stimulus Measures: Following adoption of the proposed resolution, staff will track the effects of this and other proposed stimulus measures over the coming months and years, bringing the impact fee collection rates back to Council for adjustment if necessary based upon development activity, the state of the economy, and the financial lending environment.

In addition, staff anticipates that the City's development impact fees will be reviewed and updated following adoption of the new General Plan. This may occur prior to the fee reduction expiration dates specified. However, in the absence of such an update, fees will then be collected at the rates established by Resolution 2008-3. It is expected that City General Fund contributions (or other non-impact fee sourced contributions) to infrastructure projects would cover the gap, caused by temporarily collecting impact fees at lower rates. However, to the extent that deficiencies in infrastructure result from project delay due to the temporary collection of fees at lower rates, the City will account for and not pass on these deficiencies to future development projects when impact fees are updated.

Next Steps for the Comprehensive Local Business Stimulus Package: The proposed reduction in impact fee collection is only one part of a comprehensive local business stimulus package. In May 2009, staff will bring recommendations for the following package of stimulus measures to Council for review:

- Exploring modifying the current practice of collecting impact fees at time of building permit issuance to collecting fees prior to final inspection or granting of certificate of occupancy.
- Exempting clean technology firms from local business taxes until December 31, 2010.
- Exploring participation in the Statewide Community Infrastructure Program in order to offer developers an alternative financing program to pay impact fees.
- Exploring the possibility of creating additional foreign trade zone(s) in Fremont.

Environmental Review: This action is exempt from the California Environmental Quality Act in accordance with CEQA Guideline 15273, Rate Restructuring or Modification, and because temporarily forgoing collection of a portion of impact fees due is not associated with potentially significant effects upon the environment.

Staff Alternative: Staff offers an alternative set of recommendations whereby Council would authorize all fee collection reductions to expire on December 31, 2011, thus providing another year for the fee reduction outside of the CBD. Taking the alternative action would result in loss of additional fees higher than the \$1.0 - 1.5 million amount previously estimated.

Conclusion: Staff recommends that Council adopt one of the two alternative attached resolutions to collect a reduced portion of the City's adopted impact fees in order to provide temporary fee relief to spur construction during this unprecedented economic downturn.

Environmental Review: This action is exempt from the California Environmental Quality Act per CEQA Guideline Sections 15061(b)(3) and 15273, Rate Restructuring or Modification.

ENCLOSURES: Alternative Draft Resolutions with attachment

RECOMMENDATIONS (2011 expiration in CBD; 2010 expiration elsewhere):

1. Hold Public Hearing.
2. Adopt a Resolution to collect Development Impact Fees at 75% of their full amounts in the Central Business District until December 31, 2011 and at 90% of their full amounts elsewhere in the City until December 31, 2010.

ALTERNATIVE RECOMMENDATIONS (2011 expiration date for both):

1. Hold Public Hearing.
2. Adopt a Resolution to collect Development Impact Fees at 75% of their full amounts in the Central Business District and at 90% of their full amounts elsewhere in the City until December 31, 2011.

6.1 Report Out from Closed Session of Any Final Action

7.1 RECREATION COMMISSION REFERRAL: SELECTION OF ARTIST FOR PUBLIC ART WORK AT FIRE STATION #2

Recreation Commission Referral Recommending the Selection of Vickie Jo Sowell as the Artist for the Public Art Work at Fire Station #2, 37299 Niles Boulevard

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Executive Summary: The Recreation Commission receives the recommendations of the Art Review Board for the selection of the artist, and their artwork, resulting from the construction of public projects subject to the City's "Art in Public Places Program Policy". The Commission then makes recommendations to the City Council. This report discusses the Recreation Commission's recommendation that Vickie Jo Sowell be chosen as the artist to complete the design, fabrication and installation of her proposed public art work for the Fire Station #2 project, which is located at 37299 Niles Boulevard and is scheduled for completion in Fall 2009.

BACKGROUND: On June 9, 1987, the City Council adopted the "Art in Public Places Program Policy", applicable to the construction of City buildings and new parks with an estimated construction cost of over \$500,000. The policy allocates one percent (1%) of the estimated construction cost for public art. The policy authorizes the Art Review Board to determine the preferred method for selecting the artist and artwork for the project. The Art Review Board makes its recommendations to the Recreation Commission, which in turn recommends the artist and art work to the City Council for approval.

Fire Station #2 Artist Selection Process: The total budget for the public art component of Fire Station #2 is \$33,000; of this, \$26,400 is available for the artist's commission, per the Art in Public Places Policy Program. The remaining \$6,600 is allocated for administrative charges, such as staff time.

On November 3, 2008, in response to the Art Review Board's decision to utilize an open competition selection method, the City issued a Request for Proposals (RFP) for a public art work at this site. Nineteen (19) artists responded to the RFP by the January 5, 2009 deadline.

On January 15, 2009, the Art Review Board reviewed the artists' submittals and voted to choose Vickie Jo Sowell as the single finalist for the public art work to be installed at Fire Station #2, located at 37299 Niles Boulevard. Ms. Sowell has created and installed public art works for the California cities of Brentwood, Richmond, Stockton, Oakland, Milpitas, Emeryville, and Dublin, as well as many private commissions.

On March 12, 2009, Ms. Sowell made a presentation to the Art Review Board of her final design proposal. The Art Review Board voted to recommend the Recreation Commission support the selection of Vickie Jo Sowell as the artist for the Fire Station #2 public art work and to support the final proposal

presented by Vickie Jo Sowell for the Fire Station #2 public art work, with the understanding that the original proposal for the use of tile as the background to the metal insets would be changed to metal. The artist concurs with this requested change. Fire Chief supports the proposed art work. In addition, Building Maintenance staff supports the proposed use of materials, construction and installation from the perspective of durability and longevity.

In order to dovetail with the construction schedule for the fire station, the art work will be completed by approximately July 31, 2009.

On April 1, 2009, the Recreation Commission voted unanimously to recommend the City Council approve the selection of Vickie Jo Sowell for the public art work at Fire Station #2 (37299 Niles Boulevard) as described in Enclosure "A", with the one modification that, at the request of a citizen, the image of Pacific States Steel be removed from the artwork and replaced with another image from among those in the artist's proposal, and authorize the City Manager or his designee to enter into a \$26,400 agreement with the artist.

Criteria for Selection of Art: Section IV of the Art in Public Places Program Policy states:

"In performing its duties with respect to the art in public places program, the Art Review Board shall give special attention to the following matters:

1. Conceptual compatibility of the design with the environment of the project.
2. Appropriateness of the design to the function of the project.
3. Compatibility of the design and location within a unified design character or historical character of the project.
4. Creation of a desirable environment for the general community by the design and location of the artwork.
5. Preservation and integration of natural features with the project.
6. Appropriateness of materials, textures, colors, and design.
7. Representation of a broad variety of tastes within the community and the provision of a balanced inventory of art style, design, and media throughout the community that will be representative of the eclectic tastes of the community".

In addition, during previous deliberations on proposed public art projects, the Board has considered maintenance and operational issues (such as durability and required level of maintenance by City staff); installation and materials; public safety issues, and incorporation of the artwork with the architect's design of the building.

Recognizing the considerable community interest in the Fire Station #2 public art component that was expressed by Niles residents and business owners during the design process for Fire Station #2, the Art Review Board elected to conduct an Art Review Board Special Meeting in Niles to gather further input specifically on the proposed public art component. Staff publicly noticed the meeting in the same fashion as was used for the original construction project. On April 17, 2008, in the Niles Veterans Memorial Building, members of the public from such community organizations as Niles Essanay Silent Film Museum, Niles Main Street and Niles Veterans Memorial Building provided their perspectives on

Niles' rich, unique heritage as potential artwork themes for Art Review Board consideration. Much of the input gathered from that meeting is incorporated in the artist's vision for the proposed artwork.

The Request for Proposals described two locations on Fire Station #2 for proposed art works:

1. The panels over the corner display window, and
2. The three vertical panels below the windows on the east side of the building.

Ms. Sowell's proposal includes both locations, as described below and as shown in Enclosure "A".

Proposed public art work: The artist proposes the installation of metal building panel insets over a background of colored metal. The insets are designed to resemble strips of film which "cinematically tell the story of the Niles District and its rich history, with panel screens based on the activities of workers and citizens in agriculture and industry". The cut-out metal insets include images of the historic Niles Fire Department; the California Nursery; Schukl Cannery; the film industry, including Essanay Studio, Charlie Chaplin and Bronco Billy; the Kraftile Kiln; the Niles Canyon Railway; and the Niles Portal's role in the transcontinental railroad system. As mentioned previously, the Recreation Commission recommends that the removal of the image of Pacific States Steel.

ENCLOSURE: Enclosure A: Artist's images of proposed art work.

RECOMMENDATION: Approve the selection of Vickie Jo Sowell for the public art work at Fire Station #2 (37299 Niles Boulevard), as described in Enclosure "A", (with the removal of the image of Pacific States Steel) and authorize the City Manager or his designee to enter into a \$26,400 agreement with the artist.

7.2 RESOLUTION AUTHORIZING APPLICATION FOR FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FUNDING FOR ASPHALT OVERLAY PROJECT

Adopt a Resolution Authorizing the Submittal of an Application to the Metropolitan Transportation Commission for the Federal American Recovery and Reinvestment Act of 2009 Funding for the Annual Asphalt Overlay Project (PWC 8234-H)

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Executive Summary: The purpose of this report is to request approval to submit an application to the Metropolitan Transportation Commission (MTC) for funding from the federal American Recovery and Reinvestment Act of 2009 (ARRA) in the amount of \$5,907,000 for the 2009 Citywide Asphalt Overlay Project, City Project No. 8234H (PWC). Staff is also requesting, when and if it is received, to appropriate the ARRA fund amount of \$5,907,000 to the 2009 Citywide Asphalt Overlay Project. Although the Council authorized staff on March 24, 2009, to apply for ARRA funding for street overlays, a specific resolution and appropriation authority are required.

BACKGROUND: On February 17, 2009, President Obama signed into law the ARRA, which enacted a \$787 billion economic recovery package. MTC estimated that roughly \$150 million will be available for the region through the Surface Transportation Program. Based on this figure, MTC has calculated shares for local agencies using an allocation formula developed and approved by the Local Streets and Roads Working Group in collaboration with MTC staff. The allocation formula contains four factors, weighted 25% each, including population, lane mileage, arterial and collector shortfall, and preventive maintenance performance. Using this formula, the City's share was determined to be \$4,010,000.

In addition, in a separate item on this agenda, staff is proposing to execute a Fund Exchange Agreement with Alameda County Congestion Management Agency (CMA). The agreement will provide the City with additional federal funds in the amount of \$1,897,000 in exchange for 95% or \$1,802,150 in Proposition 1B local funds. The fund exchange program allows member agencies of the CMA to exchange local and federal funds. This benefits larger cities like Fremont because in exchange for local funds they receive a slightly higher amount of federal funds (in effect a 5% premium). This benefits smaller cities because although they are eligible for the federal funding they may be unable to comply with the administrative requirements to qualify for it; the exchange allows them to exchange their share of federal funding for a slightly reduced amount of additional local funding. The City will submit the application to MTC reflecting the Local Streets and Road allocation formula amount plus the fund exchange amount for a total of \$5,907,000.

Discussion: Citywide, Fremont streets and roads have a Pavement Condition Index (PCI) of 68, which is considered "fair." However, the maintenance backlog for Fremont's 485 centerlane street miles is currently \$237 million. If sufficient funding is unavailable for street maintenance, the average PCI of the

network is expected to decrease, and the deferred maintenance backlog will increase. Given this vast need, staff recommends that the entire allocation of \$5,907,000 be focused on street maintenance. As street maintenance is deferred, the roadway often needs to be reconstructed, rather than just “maintained” through surface seals and overlays. This deferral consequently results in both a backlog and significantly higher costs in the future. Staff recommends applying the full allocation to the Annual Asphalt Overlay Project, Project No. PWC 8234-H, because Fremont has a substantial backlog of streets that have deteriorated to the point that seal coats are no longer effective and yet the streets are not in need of full reconstruction. This funding would increase the number of streets that Fremont can overlay in FY 2008/09 and would avoid even higher costs in the future.

ENCLOSURE: Draft Resolution of Local Support for and Authorizing the Filing of an Application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding and Stating the Assurance to Complete the Project.

RECOMMENDATIONS:

1. Adopt a resolution and authorize staff to submit an application to the Metropolitan Transportation Commission (MTC) for \$5,907,000 in funding from the federal American Recovery and Reinvestment Act of 2009.
2. When received, appropriate the amount in American Recovery and Reinvestment Act of 2009 funding approved by MTC in the amount of \$5,907,000 to the 2009 Citywide Asphalt Overlay Project, City Project No. PWC (8234-H).

7.3 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET UPDATE

Presentation of Updated Project Prioritization for the FY 2009/10-FY 2013/14 CIP Based on Further Costing and Scoping and Revised Revenues

Contact Person:

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Executive Summary: The purpose of this item is to present an updated prioritization of projects considered for funding in the FY 2009/10 - FY 2013/14 Capital Improvement Program (CIP). This update consists of proposed project funding programmed over the five year CIP cycle, revised revenue projections, and the addition of one project beyond what was presented at the January 27, 2009 City Council meeting. In addition, staff is forwarding the recommendation of the Parks and Recreation Commission to defund two projects and return the remaining appropriations to their respective park funds for reprogramming.

BACKGROUND: The CIP process involves a comprehensive internal project planning effort, and multiple opportunities for the City Council to review the draft CIP as it develops, and to provide direction to staff. At the January 27, 2009 City Council meeting, staff presented capital revenue projections, recommendations for projects to proceed in the CIP process and receive further costing and scoping, and status updates for all City capital projects (PWCs). At the conclusion of the presentation, City Councilmembers asked questions and made preliminary comments. The Council also approved the closeout and return of capital funds for completed projects and projects recommended to be defunded.

DISCUSSION:

Updated Project Prioritization: Since the January Council meeting, staff has worked on re-costing and scoping recommended CIP projects to refine the project cost estimates. This second round of cost estimating and project scoping resulted in some project costs rising or falling. Adjustments were made to reprioritize projects by funding group based on those refined estimates, as well as to clarify the appropriate use of appropriate fund sources for projects. The next step was to match the list of recommended projects exactly with available funding. For each fund group, project funding has been programmed over five years. Given the current economic climate and uncertainty of ongoing revenues, staff has taken a conservative approach and deliberately left some fund balance available after the first two appropriated years of the five year plan. The updated list of projects recommended to receive funding in the FY 2009/10 – 2013/14 CIP, sorted by fund group and complete with five-year programmed funding, is shown in Enclosure A.

Projects presented to the City Council at the January 27 meeting, that are not recommended to receive funding, will now be carried in a section of the Capital budget documents labeled “Unfunded Projects,” and can also be found in Enclosure A.

Despite the appearance of project costs matching available funding, many capital projects, particularly building maintenance and street maintenance, remain underfunded. In those instances, project size has been reduced to match the available funding versus meeting the actual maintenance need.

Adjusted Revenues: Revenues have been marginally adjusted for some of the fund groups based on the results of the PWC closeouts in January. The revenue projections for the Traffic Impact Fee (TIF) project fund group, however, were reduced from \$11.8 million over five years to \$9.9 million, based on declining development revenues. Staff has re-prioritized projects in the TIF fund group accordingly.

Police Building Seismic Retrofit: Subsequent to the January 27 City Council CIP update, staff received an updated cost estimate for the seismic retrofitting of the Police building on Stevenson Boulevard. The cost to implement the retrofit of the building is estimated to be approximately \$12 million dollars. Staff has determined that the City has the debt capacity to fund this project through issuance of debt. This item will come before the Council separately at a later date; however, for the purposes of reporting the CIP, the project will be shown in the "Projects Funded with Debt" fund group category.

Additional PWC Closeouts: Approximately 22 projects were defunded and closed out at the January 27, 2009 City Council meeting. Two additional projects are recommended for defunding by the Parks and Recreation Commission that were not included on the initial closeout list. PWC 8332, Central Park Celebration Grove (\$929,295), and PWC 8345, Sylvester P. Harvey - Lighted Parking (\$157,047), are recommended to return remaining project appropriations to their respective funds for programming in future capital plans.

ENCLOSURES:

- Enclosure A: CIP Project Binder with Updated Staff Recommendations for Project Prioritization
- Enclosure B: PWC Closeout List

RECOMMENDATIONS:

1. Provide comments to staff on the list of projects proposed for funding in the FY 2009/10 -2013/14 CIP.
2. Approve the close out of the capital projects identified on Enclosure B and return the remaining project appropriations to their respective funds.

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD	Fremont Unified School District
ACCMA	Alameda County Congestion Management Agency	GIS	Geographic Information System
ACE.....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD.....	Alameda County Flood Control District	HARB	Historical Architectural Review Board
ACTA	Alameda County Transportation Authority	HBA	Home Builders Association
ACTIA.....	Alameda County Transportation Improvement Authority	HRC	Human Relations Commission
ACWD.....	Alameda County Water District	ICMA	International City/County Management Association
BAAQMD	Bay Area Air Quality Management District	JPA	Joint Powers Authority
BART	Bay Area Rapid Transit District	LLMD	Lighting and Landscaping Maintenance District
BCDC	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs	Best Management Practices	LOS	Level of Service
BMR	Below Market Rate	MOU	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD.....	Central Business District	NEPA	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG.....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA	California Environmental Quality Act	PC.....	Planning Commission
CERT.....	Community Emergency Response Team	PD	Planned District
CIP	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA	Congestion Management Agency	PVAW.....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF	City of Fremont	RDA	Redevelopment Agency
COPPS.....	Community Oriented Policing and Public Safety	RFP	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC	California Transportation Commission	RHNA	Regional Housing Needs Allocation
dB	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO	Residential Rent Increase Dispute Resolution Ordinance
DO	Development Organization	RWQCB	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET	Southern Alameda County Narcotics Enforcement Task Force
EBRPD	East Bay Regional Park District	SPAA	Site Plan and Architectural Approval
EDAC	Economic Development Advisory Commission (City)	STIP	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS	Environmental Impact Statement (NEPA)	T&O	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD	Transit Oriented Development
EVAW	Emergency Vehicle Accessway	TS/MRF	Transfer Station/Materials Recovery Facility
FAR	Floor Area Ratio	UBC	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27
BROADCAST SCHEDULE**

<i>Date</i>	<i>Time</i>	<i>Meeting Type</i>	<i>Location</i>	<i>Cable Channel 27</i>
April 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 21, 2009	TBD	Work Session	Council Chambers	Live
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 4, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
May 5, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 12, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 19, 2009	TBD	Work Session	Council Chambers	Live
May 26, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 2, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 9, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 16, 2009	TBD	Work Session	Council Chambers	Live
June 23, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 30, 2009 (5 th Tuesday)		No Meeting		
July 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 21, 2009	TBD	Work Session	Council Chambers	Live
July 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
August		Council Recess		